

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

GREATER ST. LOUIS CONSTRUCTION)	
LABORERS WELFARE FUND, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. 4:09-CV-1086 (CEJ)
)	
JAMES AUBUCHON, d/b/a)	
ST. LOUIS CONCRETE,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on plaintiffs' motion for partial default judgment and an order of accounting, following entry of default against defendant James Aubuchon. Plaintiffs bring this action to collect delinquent fringe benefit contributions pursuant to Section 301 of the Labor Management Relations Act of 1974, as amended, 29 U.S.C. § 185, and pursuant to Section 502 of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1132. Plaintiffs are four employee benefit plans (the Welfare, Pension, Vacation, and Training trusts), their trustees (collectively, the plans), and the Local Union Nos. 42-53-110 and the Laborers International Union of North America AFL-CIO (the union). They seek an order granting partial default judgment against defendant in the amount of \$5,741.90, representing liquidated damages owed by defendant for contributions which were not timely made during the period of October 2008 through February 2009. Plaintiffs also seek an order compelling defendant to submit its contribution report forms for the months of March 2009 through July 2009. Should the review of those

reports indicate additional unpaid contributions, plaintiffs indicate that they will file an additional motion for default judgment based on those amounts.

According to the affidavit of Bernard Difani, an administrative manager for the plans, defendant failed to make timely contributions to the plans as required under the terms of a collective bargaining agreement entered into on March 12, 2007. Defendant was served with the summons and complaint on July 22, 2009, and has not filed an answer or otherwise appeared in this matter. The Clerk of Court has entered default against the defendant.

Plaintiffs have moved for partial default judgment in the amount of \$5,741.90. This amount reflects the liquidated damages owed by defendant for failing to timely file reports and contributions for hours worked from August 2008 through February 2009. Plaintiffs also ask the Court to compel defendant to submit its reports for the time period of March 2009 through July 2009. Plaintiffs have established that defendant is bound by the terms of a collective bargaining agreement with the union. The agreement requires that defendant submit contributions to the funds and authorizes plaintiffs to examine the financial records to ascertain whether the required contributions were made. Plaintiffs are unable to determine the amounts owed for the period of March through July, 2009, unless defendant supplies the appropriate financial documents and reports. Therefore, the Court will order default to submit its contribution report forms and other relevant documents for that time period.

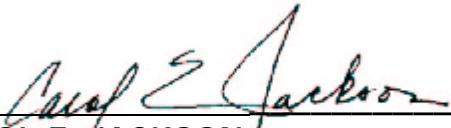
At this time, however, the Court will not grant default judgment in the amount of \$5,741.90, as requested by plaintiffs. The Court will enter

judgment in this case only after plaintiffs review the materials to be provided by defendant. At that time, plaintiffs will have an opportunity to file a motion for default judgment based on the amounts owed for all relevant time periods.

Accordingly,

IT IS HEREBY ORDERED that plaintiffs' motion for partial default judgment [#7] is granted in part and denied in part.

IT IS FURTHER ORDERED that defendant James Aubuchon, doing business as St. Louis Concrete, shall, not later than **November 13, 2009**, produce for inspection by plaintiffs, or plaintiffs' designated accountant, all contribution reports, payroll registers and other documents reflecting or pertaining to all hours worked by, and wages paid to, employees of St. Louis Concrete., from March 1, 2009 through July 31, 2009.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 29th day of October, 2009.